IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.14376 of 1997
DATED 07-2-2007

BETWEEN
M.L.Narasimha Rao.

..
Petitioner

And

The Executive Director,
APSRTC, Vijayawada Zone,
Vijayawada, Krishna District, A.P.
And another.

.. Respondent

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.14376 OF 1997

ORDER:

The petitioner, a graduate in commerce with typewriting higher grade both in English and Telugu, was appointed on compassionate grounds by the A.P.State Road Transport Corporation (APSRTC) consequent to the death of his father, a Grade-I driver, who died during the year 1992. Though the petitioner requested that he be considered for appointment to

the post of Junior Assistant or Typist, he was appointed as a Conductor on 10.1.1994 at Chilakaluripet Bus Depot.

In the affidavit filed in support of the writ petition, the petitioner would contend that the respondents had appointed 5 candidates as Typists by granting exemption from educational qualification and passing of typewriting examination as also relaxation of age and that, out of those 5 candidates, one Kum.B.Vara Kumari was appointed as a Typist on compassionate grounds with all exemptions and that their orders of appointment were issued on 17.8.1994. The petitioner's grievance is that, despite his representations that he be appointed as a Typist, he was informed vide proceedings dated 12.5.1995 that there was no vacancy in the cadre of Typists. Petitioner would contend that there are vacancies in the post of Typist in the legal cell at Guntur and that he ought to have been considered for appointment as a Typist instead of as a Conductor.

A counter affidavit is filed on behalf of the respondents by the Law Officer of the APSRTC wherein the fact of the petitioner's father having died, while in service is admitted. It is also admitted that the petitioner sought appointment on compassionate grounds as Junior Assistant-cum-Typist and that his claim was taken up and he was appointed as a Conductor with effect from 10.1.1994 at Chilakaluripet

Bus Depot. According to the respondents, as on the date of his appointment, there was no vacancy in the cadre of Junior Assistant/Typist and hence the petitioner was appointed as a Conductor.

With regard to the petitioner's contention that Kum.B.Vara Kumari and 4 others were appointed as Junior Assistants/Typists on 17.8.1994, while his request was not considered, it is stated that those 5 candidates were appointed on 17.8.1994 whereas the claim of the petitioner was considered much prior thereto on 10.1.1994 and since, at that time there were no vacancies in the cadre of Junior Assistant-cum-Typists, the petitioner could not be appointed as Junior Assistant/Typist. Subsequently, vacancies might have arisen and as a result the other persons were appointed as Junior Assistants/Typists whereas the petitioner was not. It is contended that the existing vacancies, or vacancies which have arisen subsequently, will be filled up from among the eligible departmental candidates by promotion or by direct recruitment and that the claim of the petitioner would be considered on par with his juniors as and when applications are called for.

Respondents do not deny, the specific assertion made in the affidavit filed in support of the writ petition, that 5 candidates including Kum.B.Vara Kumari, who were appointed as Junior Assistants/Typists on 17.8.1994 were exempted from

the requirement of possessing the prescribed educational qualifications, passing of the typewriting examination and relaxation of age and that from amongst these five candidates, Kum.B.Vara Kumari was appointed on compassionate grounds. It defies reason as to how the petitioner, who was fully eligible to be appointed as a Junior Assistant/Typist was not appointed as a Junior Assistant/Typist and instead a candidate who did not even possess the prescribed qualifications was appointed as a typist on compassionate grounds. The very fact that Kum.B.Vara Kumari was appointed on compassionate grounds would show that appointment to the post of Typist on compassionate grounds is not prohibited. Since the petitioner had all the while requested that he be appointed as a Junior Assistant-cum-Typist, and since he possessed the requisite qualifications, the action of the respondents in not appointing him as a Junior Assistant-cum-Typist and on the other hand appointing candidates who did not possess the requisite educational qualifications and had not passed the prescribed typewriting examination, is patently illegal and arbitrary. While it is not for this Court, ordinarily, to issue a Mandamus in this regard, the action of the respondents in denying a fully qualified candidate, appointment to the post to which he was eligible, while admittedly, appointing candidates to those posts despite the fact that neither

they possessed the educational qualifications nor had passed the prescribed typewriting examination required to be appointed to the said post, necessitates a Mandamus being issued by this Court. The respondents shall consider the case of the petitioner and appoint him as a Junior Assistant/Typist, in any of the available vacancies, in the respondent Corporation and in case there are no vacancies available, his claim for appointment shall be considered vis-a-vis the 5 candidates who were appointed on 17.8.1994, after putting them on notice and giving them an opportunity of being heard before any final decision is taken in this regard. The entire exercise in this regard shall be completed within a period of four months from the date of receipt of a copy of this order.

The writ petition is allowed. However, in the circumstances, without costs.

RAMESH RANGANATHAN,J

Dt: 7.2.2007
msv.